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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,549

07/30/2003

Frank M. Bagala

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01/19/2007

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EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/604,549

**Applicant(s)**

BAGALA ET AL.

**Examiner**

Stuart Hendrickson

**Art Unit**

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6, 12, 19-21 is/are allowed.
- 6) ☒ Claim(s) 1,7-11 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 7-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '997 taken with Steiner 4039619.

'997 teaches in the entire document, especially pg. 8, treating CO to remove sulfur then reacting it to make phosgene. This differs in not teaching the exact sorbent agent, however Steiner teaches in the entire document, especially column 2, removing sulfur gases using Ni on active carbon. Using the getter of Steiner in the process of '997 is an obvious expedient to purify the CO to the desired purity to avoid side-reactions.

Concerning claims 7 and 8, it appears that the CO is essentially S free. Concerning claim 9, burning clean coke to make a low sulfur gas is an obvious expedient to avoid S contamination in the first place. '997 teaches drying of claim 10 and mixing of claim 11. Concerning claim 13, reversing the order of steps (removing water before removing S) is an obvious expedient of routine variation; see *In re Japikse* 86 USPQ 70 and *In re Rose* 105 USPQ 137.

Applicant's arguments filed 7/31/06 have been fully considered but they are not persuasive. '977 clearly teaches making phosgene as a deliberate step, and desires pure CO to do so. Steiner teaches how to remove S containing gases from a stream and therefore is combinable with '997. The arguments imply that any time an examiner makes a statement that something is obvious, then it is 'conclusionary'. To the extent that obviousness is a legal conclusion, this is not improper. It is not necessary for the Steiner catalyst to decarbonize, and in any event it may be capable of doing that as well; active carbon is a sorbent for all sorts of things. While the temperature of Steiner is higher than that of '997, the sorbent of Steiner is still expected to function to remove the undesirable compounds; the effluent of '997 may be heated for greater catalytic effect and therefore the temperatures may be made more compatible.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

A handwritten signature in black ink, appearing to read 'Stuart Hendrickson', is positioned above the printed name.

Stuart Hendrickson  
examiner Art Unit 1754